

**ALASKA STATE LEGISLATURE
SENATE EDUCATION STANDING COMMITTEE**

May 7, 2021
9:02 a.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Gary Stevens, Vice Chair
Senator Shelley Hughes
Senator Peter Micciche
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 10
Proposing an amendment to the Constitution of the State of
Alaska relating to in-person public education.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 10

SHORT TITLE: CONST. AM: IN-PERSON PUBLIC EDUCATION

SPONSOR(S): SENATOR(S) COSTELLO

03/10/21	(S)	READ THE FIRST TIME - REFERRALS
03/10/21	(S)	EDC, JUD
04/14/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/14/21	(S)	<Bill Hearing Canceled>
04/21/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/21/21	(S)	<Bill Hearing Canceled>
05/07/21	(S)	EDC AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

SENATOR MIA COSTELLO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SJR 10.

KATIE MCCALL, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sponsor statement and sectional analysis for SJR 10 on behalf of the sponsor.

ACTION NARRATIVE

[9:02:16 AM](#)

CHAIR ROGER HOLLAND called the Senate Education Standing Committee meeting to order at 9:02 a.m. Present at the call to order were Senators Hughes, Stevens, Micciche, Begich, and Chair Holland.

SJR 10-CONST. AM: IN-PERSON PUBLIC EDUCATION

[9:03:05 AM](#)

CHAIR HOLLAND announced the consideration of SENATE JOINT RESOLUTION NO. 10 Proposing an amendment to the Constitution of the State of Alaska relating to in-person public education.

[9:03:19 AM](#)

SENATOR MIA COSTELLO, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 10, stated that this legislation proposes an amendment to the Alaska Constitution relating to in-person education. If the legislature were to pass SJR 10, she said the measure would go before the voters in the next general election. If passed, it would add the following language to the Alaska Constitution: "Public schools shall provide the opportunity for in-person education unless a disaster declaration is in effect."

[9:04:16 AM](#)

SENATOR COSTELLO explained that the state saw extreme disruption in schools last year with the lack of in-person learning that disenfranchised thousands of students. This resolution would elevate the requirement for a superintendent to make a determination to close schools to in-person learning only in times when a disaster declaration was in effect. The Alaska Constitution provides for local control in education. Under SJR 10, the decision on whether to close schools or keep them open would still be available to local school districts.

[9:05:36 AM](#)

SENATOR COSTELLO stated that as an Alaskan student, parent and classroom teacher, she understands the importance of the

education system. The devastation and havoc wreaked on Alaska families and students will affect them for years to come. She acknowledged that there are legitimate times when schools should be closed. For example, the second floor of the high school she attended collapsed during the Good Friday earthquake in 1964. She related that she has been contacted by countless families who expressed frustration about the loss of in-person learning. Many parents who contacted her are teachers themselves. As a parent, she was not involved in the decision-making process to close schools during the pandemic. The damaging effects of closing schools to in-person learning must be weighed against the damage caused by keeping schools open. SJR 10 will set a bar that must be reached before in-person learning is denied; that bar would be set by a disaster declaration

[9:07:52 AM](#)

SENATOR COSTELLO said she hopes the committee will agree to add one more requirement before schools can be closed to in-person learning.

SENATOR COSTELLO deferred to her staff to read the sponsor statement and present the sectional analysis.

[9:08:34 AM](#)

KATIE MCCALL, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, paraphrased the sponsor statement for SJR 10. It read as follows:

Students thrive on the ability to learn together. It gives them the chance to help one another, make friends, and gain lifelong skills. With the widespread shift to virtual learning due to the COVID-19 pandemic, children lost the opportunity to see their peers regularly and learn through interacting directly with their teachers and classmates. Not only did this stymie academic progress, but it negatively affected the mental health of students.

As we reflect on the past year, the importance of in-person schooling is obvious to parents and students who have been facing varying degrees of isolation. Senate Joint Resolution 10 would, through a vote of the people, amend the Alaska Constitution to ensure that public schools offer in-person learning unless a disaster declaration is in effect.

[9:09:58 AM](#)

MS. MCCALL read the sectional analysis for SJR 10 as follows:

Sec. 1 - Article VII, sec. 1, Page 1, Lines 4-11
Amends the Alaska State Constitution by adding a requirement that public schools offer in-person education unless a disaster declaration is in effect.

Sec. 2 - Page 1, Lines 12-14
The proposed amendment will be placed before the voters at the next general election.

9:10:26 AM

SENATOR STEVENS said he understands what in-person learning is but he is unsure what it is not. He asked the sponsor to describe the issues related to homeschooling and online delivery of education.

SENATOR COSTELLO recalled that a member from East Anchorage recently defined in-person learning on the Senate floor in a straight-forward manner to mean "in-person." She expressed concern that the Anchorage School District (ASD) may consider in-person to mean a teacher on a computer monitor via Zoom or Teams at the front of a classroom filled with students. However, she considers in-person to mean human-to-human contact, such as committee members present in the committee room today. In fact, it may be advantageous to define the term in statute since the districts or others may incorporate innovative ways to define the term.

9:12:09 AM

CHAIR HOLLAND related that the committee previously held conversations about how to temporarily suspend in-person learning when schools are closed for snow days. He expressed concern that such a definition could have unintended consequences by preventing online classes during snow days.

9:12:40 AM

SENATOR COSTELLO recalled that when she taught school at Service High School there were closures due to snow days. The intention is not to include temporary short-term school closures, she said. If SJR 10 were to pass, a statute could follow to clarify that this relates to long-term in-person learning but not to snow days or other short-term closures.

9:13:21 AM

SENATOR HUGHES said she appreciated the sponsor's concern. The committee heard from superintendents that it may be difficult or

impossible for students to catch up on studies due to the pandemic school closures. She asked why the change would need to be in the Alaska Constitution and if it could be addressed in statute.

SENATOR COSTELLO responded that her intention was to address this issue in the Alaska Constitution and in statute. She emphasized the importance of educating students and pointed out that the state has a responsibility to provide education for all students in Alaska. Placing this language in the Alaska Constitution will elevate it to an importance not found in statute, she said.

9:14:44 AM

SENATOR HUGHES stated that while the disaster declaration was still in effect, CDC said it was safe for children to attend school. She highlighted that the resolution could be interpreted to mean that schools do not need to operate while a disaster declaration is in effect.

SENATOR COSTELLO related her understanding that the way SJR 10 is drafted, an in-person opportunity could exist during a disaster declaration. Under SJR 10, a disaster declaration needs to be in effect in order for districts to remove in-person learning.

9:15:44 AM

SENATOR HUGHES maintained her interpretation of the language to mean that when a disaster declaration is in effect that the public schools do not need to provide an in-person learning opportunity. She acknowledged that she may be reading it wrong. She stated that two of the largest schools in the district made different decisions when the disaster declarations were in effect. One school closed and the other brought students into the classroom. According to SJR 10, that wouldn't be possible. She posited that the committee might need a constitutional attorney to interpret the language.

9:16:46 AM

SENATOR BEGICH agreed with Senator Hughes that the constitutional language would prohibit the dual action that occurred. He pointed out that the Senate floor action the sponsor referred to was unresolved so the meaning of in-person learning was not clear. He highlighted two issues. First, while the sponsor's intent is not to include snow days for closures, the language is strict. He said he would be curious how Legislative Legal Services attorneys might interpret it. It

reads "Public schools shall provide the opportunity for in-person education unless a disaster declaration is in effect." Those are pretty specific words, he said. Second, he asked about the situation in Tuluksak, in which the school burned in part because potable water was not available. The district decided to stop in-person school but the governor did not declare a disaster for three weeks. He asked whether this would be in violation of this constitutional amendment.

SENATOR COSTELLO answered yes. She suggested that it might provide the administration an opportunity to declare a disaster.

9:18:50 AM

SENATOR BEGICH stated that SJR 10 would remove local decision-making ability on life and safety issues. He asked whether the committee could amend SJR 10 to take into account those situations.

SENATOR COSTELLO said she was willing to work with committee members on the measure and listen to their concerns. She offered her belief that everything legislators accomplish includes weighing values. She maintained that public education is of such importance that removing in-person learning must be justified. During a pandemic, the local school board could decide to keep schools open but should require a disaster declaration to be in effect before schools are closed to in-person learning.

9:20:31 AM

CHAIR HOLLAND commented that there is so much more to in-person learning than just education. He emphasized that the daily interaction is essential. Some schools in Southwest Alaska opened because of increased incidence of self-harm among students. He stated that students need to attend in-person whenever possible.

9:21:23 AM

SENATOR COSTELLO acknowledged that the point about mental health was important. The negative mental health effects due to a lack of social interaction was significant. She asked her staff to read an email from a parent.

9:22:02 AM

MS. MCCALL read an email [source unidentified], as follows:

Dear Alaska Legislators,

I'm writing to voice my consent to passing SJR 10. As a retired teacher with 25 years in the Anchorage School District, I know firsthand how vital in-person learning is for our students. If we truly care about their social-emotional wellbeing, then we must allow them to be physically present in safe environments, where their teachers and peers can encourage them to succeed.

MS. MCCALL stated that similar letters were uploaded to BASIS.

9:23:02 AM

SENATOR MICCICHE offered his belief that a disaster declaration does not have any connection to school closures. Every state issued disaster declarations but not all schools closed. He emphasized that schools should remain open. He recalled that parents disagreed with the Kenai Peninsula Borough School District. He said many parents in his district were upset. He explained that local school boards making choices is not connected to what the state does. He related that during the earthquake a disaster declaration was issued but districts found ways to keep their schools open. He expressed concern that someone will use a disaster declaration as an excuse. Even if there is a declaration, it does not mean that schools should close.

SENATOR COSTELLO offered her belief that SJR 10 does not connect disaster declarations to in-person learning since there can still be in-person learning during a disaster. SJR 10 says schools cannot be closed unless there is a disaster declaration. For instance, under SJR 10, the Anchorage School District could not close its schools during the fall semester unless a disaster declaration is in effect. It does not say that schools must close if there is a declaration, she said.

9:25:52 AM

SENATOR MICCICHE expressed concern about the issue. He said he favors a statutory approach to indicate that schools shall be open. He highlighted that the state pays a substantial amount of money for in-person learning in schools. He characterized in-person learning as critical. He offered two approaches. One approach is embodied in SJR 10, he said. Another approach is to limit closures for specific reasons and quantifiable risks; otherwise, students will be in school in in-person learning situations.

9:26:57 AM

SENATOR BEGICH recalled that when he was a student in Anchorage that schools were closed for a four-day period due to icy road conditions. He stated that closure would not qualify as a disaster. Thus, this amendment would not allow schools to close due to icy road conditions. He wondered whether schools were ever closed for any length of time other than during this once in a lifetime pandemic.

9:28:08 AM

SENATOR COSTELLO answered that she was not aware of any other time schools were closed.

9:28:14 AM

SENATOR BEGICH remarked that there is debate today, including among some legislators, about whether a disaster even occurred. In addition, some legislators disagree as to whether the disaster declaration should be lifted. Further, local officials and the governor disagree on pandemic decisions. He asked whether the sponsor considered the life and public safety issues and whether this could put lives at risk.

SENATOR COSTELLO responded that the decision to close schools is up to superintendents who are not elected officials. This resolution would not discount that decision but it would say when the unelected person makes that decision a disaster declaration made by an elected official must be in place. She solicited her staff to provide the process used to close schools.

9:30:20 AM

MS. MCCALL explained that the Anchorage School District superintendent makes the final decision on whether to close schools and go to online learning. The superintendent involves the entire leadership team including the Chief of Operations, Chief of Human Resources, Chief of Information and the Health Care Services Director. The leadership team uses Center for Disease Control and Prevention (CDC) guidance, COVID-19 caseload and other factors to assist the superintendent. Ultimately, the final decision is an administrative decision made by the superintendent.

9:31:13 AM

SENATOR HUGHES related her understanding that some municipalities can declare a disaster. She asked whether SJR 10 will address that or if the resolution only applies to statewide declarations.

MS. MCCALL answered that SJR 10, as currently written, does not require a statewide disaster declaration. She suggested the issue could be reviewed if members have an interest in amending the resolution.

[9:32:08 AM](#)

SENATOR HUGHES highlighted that she would not want to adversely impact students who choose to take classes online if in-person courses were not available for the subject matter. She expressed concern that if a disaster declaration was not in place, it might inhibit student opportunities.

SENATOR COSTELLO responded that the phrase "shall provide the opportunity" provides the student the opportunity to take the online course.

SENATOR HUGHES highlighted that the district might not have a means to provide Mandarin Chinese courses, for example. She said she would like to avoid any legal issues.

[9:33:25 AM](#)

SENATOR MICCICHE agreed wholeheartedly. He said he is contemplating the best way to achieve this. He said he was willing to work with the sponsor.

[9:34:08 AM](#)

SENATOR BEGICH said Senator Hughes raised an important issue. He related a scenario in which a rural district does not offer a high-level math course because an in-person teacher is not available. He asked whether a student could sue the state to provide an in-person teacher to teach the course. He suggested that perhaps the language needed to be tightened since it raises the potential for students to reject distance learning. He offered his belief that the definition of "in-person learning" would need to be litigated. He asked whether a statutory change might provide a better way to achieve the sponsor's intent.

[9:36:26 AM](#)

SENATOR COSTELLO expressed that she was willing to work with the committee. She added that she also had a statutory solution.

[9:36:44 AM](#)

CHAIR HOLLAND said he was sure the sponsor has nothing but the best interest of students in mind. He highlighted that the committee has identified many areas for discussion.

SENATOR HUGHES remarked that she heard from numerous families who expressed concern about students being out of the classroom.

[9:37:53 AM](#)

CHAIR HOLLAND held SJR 10 in committee.

[9:38:10 AM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Education Standing Committee meeting at 9:38 a.m.